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Richard S. Bice

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VERIZON  
PATENT MANAGEMENT GROUP  
1515 N. COURTHOUSE ROAD  
SUITE 500  
ARLINGTON, VA 22201-2909

EXAMINER

AVELLINO, JOSEPH E

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/879,816  
Filing Date: June 12, 2001  
Appellant(s): BICE ET AL.

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John E. Harrity  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed April 26, 2006 appealing from the Office action mailed December 14, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,631,363	Brown et al.	10-2003
6,748,555	Teegan et al.	6-2004

5,926,100

Escolar et al.

7-1999

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 3-8, 14-15, 20, 24-28, and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. (USPN 6,631,363) (hereinafter Brown).

1. Referring to claim 34, Brown discloses a network based automated message handling system for initiating responses to messages transmitted through a network by application components, the system comprising:

at least one customer-defined message handling rule (i.e. customer customized alerts based upon data the customer wishes to be notified about) (col. 6, lines 5-10);

at least one service-based message handling rule (i.e. depending upon the level of service of the customer such as implicit events which determine when new products have been added) (col. 3, lines 43-60);

at least one common message handling rule (i.e. receiving a notification that the user requests notification about, determining how to process the notification and how to disseminate this information to the user) (col. 5, lines 20-25); and

a message handler configured to:

receive a message from an application component (i.e. either data or an event type) (col. 3, lines 20-25),

determine, based on a content of the received message, whether to apply the customer defined message handling rule (i.e. data update to apply the customer defined message (Figure 5, ref. 64);

determine, based on the content of the received message, whether to apply the at least one service message handling rule (i.e. determine which new products have been added (col. 3, lines 43-55);

determine, based on the content of the received message, whether to apply the at least one common message handling rule (i.e. notification data alert to therefore determine how to notify the user) (col. 5, line 66 to col. 6, line 10);

identify at least one first party when the first rule applies (i.e. determine the explicit events pertain to which user (Figure 5, ref. 66, arrow under TRUE);

identify at least one second party when the second rule applies (i.e. determine user to route implicit events to) (col. 3, line 43 to col. 4, line 50);

identify the third party when the third rule applies (i.e. generate message based on the conditionals of the user) (col. 5, line 66 to col. 6, line 10); and generate new messages to the first, second, and third parties(col. 5, line 66 to col. 6, line 10)

2. Referring to claim 3, Brown discloses comprising a customer-interface portal, said portal providing an interface for a customer to express customer-defined rules

(Brown discloses that the user has the ability to define customer defined rules, however does not expressly state that a customer-interface portal was used, however it would be inherent to the system of Brown that a customer-interface portal was used since there would be no other way for a user to define rules to the system) (col. 5, lines 18-27).

3. Referring to claim 4, Brown discloses said portal interface for allowing a customer to define customer-defined rules allows a customer to express identifying messages for which the contents of the message should be automatically forwarded to at least one desired recipient (Figure 4; col. 3, lines 18-25).

4. Referring to claims 5-7, Brown discloses allowing the customer to identify a delivery method for messages, wherein one of the available delivery methods is a pager notification method, an email notification, or a message posted to an internet address (since an email address is technically considered an internet address, since it distinctively identifies an account on the Internet, the cited portions related to an email notification also applies to claim 7) (col. 5, line 55 to col. 6, line 9).

5. Referring to claim 8, Brown discloses allowing a customer to express without prompting at least one desired recipient (i.e. the user is considered the recipient of the message) (col. 5, lines 18-27).

6. Referring to claims 10-12, Brown discloses comprising at least one service-based rule and at least one common rule and wherein the rules are identified by the contents of a received message (col. 3, lines 18-60).

7. Claims 14-15, 24-28, and 35-36 are rejected for similar reasons as stated above.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown

8. Referring to claims 17-19, Brown discloses the invention substantively as described in claim 35. Brown further discloses at least one delivery method comprises transmission to a pager email transmission, and an Internet post operation (i.e. an email is inherently an internet post operation since the information is transmitted through the internet to a destination) (col. 5, line 65 to col. 6, line 4). Brown does not specifically disclose displaying a list of available delivery methods, and determining from the customer a desired delivery method for transmission of a message, however one of ordinary skill in the art would recognize the benefits of displaying a list of available delivery methods in order to determine as to how the system can notify the user. BY this rationale, "Official Notice" is taken that both the concept and advantages of providing for a list of available delivery methods is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the system of Brown to include an available delivery method list in order for the system to let the user

know of the capabilities of the notification system, resulting in a concise user interface for which the user to define the notifications (col. 5, lines 20-25).

Claims 2, 16, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Teegan et al. (USPN 6,748,555) (hereinafter Teegan).

9. Referring to claim 2, Brown discloses the invention substantively as described in claim 1. Brown does not specifically disclose notifying a software developer when a software fault is indicated by the contents of a message. In analogous art, Teegan discloses another network based automated message handling system wherein the system notifies a software developer when a software fault is indicated by the contents of a message (col. 16, lines 6-14). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Teegan with Brown since Brown discloses that the event notification system can “also work with applications which do not generate such events, and is adaptable to nearly any type of computer application” (col. 2, lines 35-38). This would lead one of ordinary skill in the art to search analogous art which would yield the system disclosed in Teegan. By this rationale, it would be obvious to combine these references.

10. Claims 16, and 29-31 are rejected for similar reasons as stated above.



Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Escolar (USPN 5,926,100).

11. Brown discloses the invention substantively as described in claim 4. Brown does not specifically disclose comprising a contacts list tool identifying entities associated with a hosted application. In analogous art, Escolar discloses another network-based automated message handling system wherein a contacts list tool identifying entities associated with a hosted application (Figure 3, 48). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Escolar with Brown since Brown discloses that the event notification system can “also work with applications which do not generate such events, and is adaptable to nearly any type of computer application” (col. 2, lines 35-38). This would lead one of ordinary skill in the art to search analogous art which would yield the system disclosed in Escolar. By this rationale, it would be obvious to combine these references.

#### **(10) Response to Argument**

Appellant's argued, in substance, that (A.1) Brown does not disclose or suggest at least one customer-defined message handling rule, at least one service-based message handling rule, and at least one common message handling rule (Brief, p. 6-10), (A.2) Brown does not disclose a portal interface that allows a customer to express

without prompting at least one desired recipient (Brief, page 13), (B.1) hindsight was used instead of motivation to incorporate the teaching of Teegan into Brown (Brief, p. 19), (C.1) Escolar does not disclose or suggest a portal interface which identifies associated with a hosted application to a customer as potential recipients of an automatically forwarded message, (D.1) Brown does not disclose transmission of a message to a pager, and (D.2) Appellant challenges Examiner's "Official Notice" that "providing a list of available delivery methods" is well known in the art.

As to point (A.1) the Examiner respectfully disagrees. The specification provides definitions of these terms as follows:

customer-defined message handling rule: "defines actions desired by a customer to be taken in the event of a message indicating a condition or event" (page 5, lines 19-21);

service-based message handling rule: "rules are dependent upon a level of service subscribed to by a user" (page 7, lines 1-2); and

common message handling rule: "applicable to all customers" (page 7, line 3).

First, it should be noted that Appellant does not disclose that each of the message handling rules must be exclusive (i.e. the customer-defined rules must be exclusive of the service-based rules, which must be exclusive to the common rules).

Brown discloses customized alerts customized by the user which defines what alerts the user wishes to be notified and how the user is to be notified (col. 6, lines 4-10). Brown further discloses having service-based message rules, since the user must register with the service of Brown, any and all rules defined by the user are inherently service-based rules since any rules are dependent upon the service subscribed to by the user (i.e. register with the alert manager col. 5, lines 20-25). Each event type (Figure 4; col. 4, line 66 to col. 5, line 6) can be construed a level of service, since each recipient must subscribe to the event type (see col. 5, lines 7-18) in order to receive notifications regarding the event type.

Applicant further argues that the service-based rules are rules provided by a service provider as evidenced by page 30, lines 3-4 of the specification (Brief, page 10). However, upon a closer review, it should be noted that the "service-based rules are rules which are ***preferably*** provided by the application hosting service provider." (p. 30, lines 3-4) (emphasis added). That stated, it is clearly shown that this is a *preferred embodiment*, which does not necessarily construe a definition of the term "service-based rules". Therefore the concise definition shown on page 7 above applies solely to the definition of these rules. Furthermore these rules are, in fact, defined by the service provider. Attention is drawn to Brown, col. 3, lines 50-55 where the system periodically scans a product database and *determines when new products have been added*. Events which are discovered by such a *comparison between a previous state of an object...with the current state*". Another way of putting this is the rule

If (current state  $\neq$  previous state) then  
Generate implicit event

This clearly shows that the so called “batch jobs” of Brown are, in fact, service-based rules since they are based on the level of service subscribed to by the user (i.e. either the user is subscribed to the service to utilize these rules, or they are not). By this rationale, the rejection is maintained.

Finally, Appellant argues that the rules found in Brown’s alert manager are user-defined rules. Even assuming, *arguendo*, that this is correct, these messages are common to ***all the users***, therefore meeting the definition of a “common rule” as supplied by Appellant.

As to point (A.2), the claimed portal interface can be considered the alert manager 24 of Brown. As shown at col. 5, lines 55-60, an email (which inherently must have a recipient) can be sent to the user who registered the rule and that any number of notifications can be made. The rule includes as to whom the notification is to be sent. Appellant argues that there is no need for the user to express a recipient in Brown, however, as shown in col. 5, line 55 to col. 6, line 4, numerous recipients (i.e. email, notification windows on a desktop, call to a pager, etc.) are defined in the rule. By this rationale, the rejection is maintained.

As to point (B.1) it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, one of ordinary skill in the art would want to modify the system of Teegan with Brown in order to generate customized alerts regarding the condition of software monitoring and to generate events which signal a fault is occurring with the system. By this rationale, the rejection is maintained.

As to point (C.1) Escolar discloses that the list 48 can be stored as data 34 in memory 30 (col. 3, lines 32-35). Furthermore the claim recites that the list is presented as potential recipients of an automatically forwarded message. This list is provided as a list of contact numbers to call in response to an alarm (col. 3, lines 10-15). The customer in this sense is the actual system, the system then takes this list of potential contacts, and, based on various factors, determines who to contact (col. 3, line 60 to col. 4, line 5). This clearly shows that the list 48 corresponds to the contacts list tool as claimed. By this rationale, the rejection is maintained.

As to point (D.1) Attention is directed to Brown, col. 5, lines 55-60 where it is stated that "a call can be made to a ***pager***...". This clearly shows that a transmission is directed to a pager. By this rationale, the rejection is maintained.

As to point (D.2) the Examiner provides Wagner (USPN 6,092,102). It can clearly be seen in col. 11, line 59 to col. 12, line 15 as sufficient evidence of displaying a list of available delivery methods (i.e. Pager, email, to-do list, etc.) for automatic forwarding of messages to a customer, and determining from the customer a desired delivery method for transmission of a message to a desired recipient (i.e. as denoted by the X's). By this rationale, the rejection is maintained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

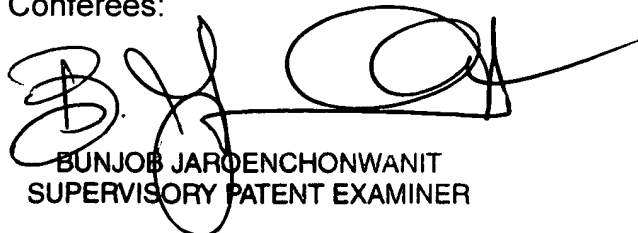
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Joseph B. Avellino



Conferees:



BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER